IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Danville Division

GWENDOLYN SMALLS, as Administratrix
of the Estate of LINWOOD RAYMOND
LAMBERT, JR., deceased

Plaintiff,

vs. CIVIL ACTION NO. 4:15-cv-00017 (JLK)

CHIEF OF POLICE, JAMES W. BINNER,
COLONEL, Individually and in his official
Capacity, et al.,

Defendants.

PLAINTIFF'S RESPONSE IN OPPOSITION TO
DEFENDANTS' MOTION FOR SANCTIONS (DOCUMENT 56)

Plaintiff, Gwendolyn Smalls, as Administratrix of the Estate of Linwood Raymond Lambert, Jr., deceased, hereby requests that this Honorable Court deny, Defendants' Motion for Sanctions. Defendants ask that the Court to sanction Plaintiff's counsel under Rule 11 based upon contents of Plaintiff's opposition to a Motion to Limit the Scope of Discovery. Rule 11 does not apply to discovery motions. See F.R.C.P. 11(d)(Rule 11 "does not apply to disclosures and discovery requests, responses, objections, and **motions** under Rules 26 through 37.)[1] Even if Rule 11 had some application to discovery issues, the Court should not award sanctions to Defendants based on the contents of Plaintiff's response to their motion which they lost.[2] The crux of Defendants request for sanctions is that they object to the manner in which Plaintiff opposed their motion to limit discovery. In the end, this is a case in which the South Boston

[1] Defendants' Motion to Limit the Scope of Discovery and Plaintiff's response thereto falls under Rule 26.

[2] While this Court granted in part and denied in part Defendants' Motion to Limit the Scope of Discovery, the Court rejected Defendants' primary request to limit the scope of discovery to the immediate events preceding the death of Linwood Lambert. The Court did not limit discovery to the actions of May 4, 2013.

police department used a Taser on an unarmed and restrained African-American for seventy-nine (79) seconds. Defendants may believe their conduct was reasonable, proper and worthy of commendation. It is not sanctionable, however, for Plaintiff to argue otherwise, and claim that his treatment (and death) at the hands of the South Boston Police Department was due to his race. Moreover, Defendants' Motion ignores recently revealed facts which support Plaintiff's contentions that the South Boston Police Department violated Linwood Lambert's civil rights. Finally, Defendants do not cite a single case in which a court has imposed Rule 11 sanctions on a party for the use of a particular words or adjectives to describe a suspicious death in a response to a discovery motion.

In support of her opposition to the motion, Plaintiff respectfully submits the attached Memorandum of Law.

Respectfully submitted,

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